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HIGH COURT OF CHHATTISGARH AT BILASPUR

Review Petition No. 21 of 2007

APPLICANTS : 1. Pt. Ravishankar Vishwavidyalaya Raipur Through: Registrar, Raipur, Distt. Raipur (C.G.)
2. Vice Chancellor, Pt. Ravishankar Vishwavidyalaya Raipur, Distt. Raipur (C.G.)

VERSUS

NON-APPLICANTS : 1. Ku. Anubhuti Gupta D/o Ashok Kumar Gupta Aged about 20 years, R/o 306, Vinayak Nagar Raipur Tahsil & District Raipur (C.G.)
2. State of Chhattisgarh Through-Secretary Higher Education Ministry Secretariat, D.K.S. Bhawan, Raipur (C.G.)
3. Principal Raipur Institute of Technology, Distt. Raipur (C.G.)

REVIEW PETITION FOR REVIEW OF THE JUDGMENT /ORDER MADE BY THIS HON'BLE COUR T DATED 29.03.2007.

Single Bench: Hon'ble Justice Shri Satish K. Agnihotri.

By circulation in Chamber.

ORDER

(Passed on 27th day of April, 2007)

1. The matter is taken up for consideration in the chamber under provisions of Rule 76(2) of The High Court of Chhattisgarh Rules, 2005.

2. By this petition, the applicants-respondents 2 and 3 in the writ petition, mainly questions the power of this Court under Article 226 of the Constitution of India on the ground that once the non-applicant no. 3 college has submitted details of the marks obtained by the non-applicant no. 1/petitioner in the practical test, the same should not be permitted to be modified as the non-applicant college has not replied to the letter dated 9.12.2006 issued by the non-applicants.

3. In the facts of the case, after hearing all the parties in the main petition, this Court noticed that by mistake the marks obtained by the non-applicant no. 1/writ petitioner in the practical exam was entered as '8', infact, she obtained '18' marks in the practical marks in the subject "Introduction to Jawa Programming". Accordingly, this Court directed that the result of the non-applicant no. 1/petitioner be declared after having taken into account '18' marks obtained by the petitioner in the practical examination. The dispute between the College and the University should not come in way of career of a student who has obtained more marks and by making wrong entry in the mark-sheet which is admitted later on by the college, the petitioner was denied the benefit of her work.

4. This review petition is not to seek review of any error apparent on the face of the record but it questions the authority of this Court under Article 226 of the Constitution of India.

5. On perusing the documents, no apparent error has been found in the order sought to be reviewed. Thus, this application deserves to be dismissed summarily.

6. It is well settled that once the State or an instrumentality of the State is a party, it is an obligation in law to act fairly, justly and reasonably which is the requirement of Article 14 of the Constitution of India. A writ court can issue suitable directions to set right the arbitrary action of the instrumentality of the State. The University is admittedly an instrumentality of the State.

7. The Supreme Court, in ABL International Ltd. Vs. Export Credit Guarantee Corpn. Of India Ltd. & Others, (2004) 3 SCC 553, held as under:

> "28. However, while entertaining an objection as to the maintainability of a writ petition under Article 226 of the Constitution of India, the court should bear in mind the fact that the power to issue prerogative writs

> under Article 226 of the Constitution is plenary in nature and is not limited by any other provisions of the Constitution. The High Court having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. The Court has imposed upon itself certain restriction in the exercise of this power (See Whirlpool Corpn. V. Registrar of Trade Marks) And this plenary of the High Court to issue a prerogative writ will not normally be exercised by the Court to the exclusion of the other available remedies unless such action of the State or its instrumentality is arbitrary and unreasonable so as to violate the constitutional mandate of Article 14 or for other valid and legitimate reasons, for which the Court thinks it necessary to exercise the said jurisdiction."

8. The petitioner has not pointed out any manifest error on the record and the petitioner has not further brought into the notice, any new fact which could not be produced earlier despite diligent efforts made by the petitioner. It is well settled that the review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 of the Code of Civil Procedure, even in exercise of review jurisdiction by the High Court under Article 226 of the Constitution of India. The applicant has not produced any new ground for review except the same ground which have been considered and decided in the writ petition.

9. For the reasons stated above, this review application is dismissed.

Sd/-
Satish K. Agnihotri
Judge

Amit